

# Exhibit 1

**THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**STEPHEN McCOLLUM, et al.**

**VS.**

**BRAD LIVINGSTON, et al.**

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**No. 3:12-CV-2037 L**

**MEDIATION AGREEMENT**

After a mediation session on this date, the parties agreed that the Defendants will propose the following items to the Agency leadership:


1. The incoming non-medically assessed offenders whose self-assessment indicate a heat related risk will be placed upon a temporary wellness checklist, until medically evaluated with documentation.
2. Development of a training video on the identification of and response to, apparent heat related illness or injuries, in cooperation with appropriate medical experts.
3. Defendants will review the feasibility of respite areas for newly received offenders or previously identified offenders on the heat list along with development of appropriate documentation.
4. Identify offenders at risk of heat injury in a manner visible to all staff.
5. Develop a formal written policy for addressing excessive heat in prisoner housing areas.
6. For every prisoner death (whether at a prison or at a medical facility after transfer from the prison) where hyperthermia, heat, high temperatures or the heat index is a cause or contributing cause, the warden of the prison, the regional director overseeing the particular prison, the Correctional Institutions Division director, the Executive Director and the TDCJ Board shall be notified and provided a report.

It is further agreed that no aspect of Plaintiffs' case has been compromised or released in any fashion as a result of this agreement.

Defendants will report back to the Plaintiffs' counsel on the proposals within 120 days.

AGREED this 28<sup>th</sup> day of March, 2013.

**DEFENDANTS:**

By:   
Name: Bruce Garcia, for all Defendants

**PLAINTIFFS:**

By:   
Name: Jeff Edwards, for all Plaintiffs

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**Stephen McCollum, et al.,**

**v.**

**Brad Livingston, et al.,  
Defendants.**

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**Civil Action No. 3:12-CV-02037 L**

**MEDIATION PROPOSAL UPDATE**

**TO:** Jeff Edwards, The Edwards Law Firm, The Bremond Houston House, 706 Guadalupe, Austin, Texas 78701; Scott Medlock, Brian McGiverin, James C. Harrington, Texas Civil Rights Project, 1405 Montopolis Drive, Austin, Texas 78741; and Eliot Shavin, 2600 State Street, Dallas, Texas 75204

Pursuant to the March 28, 2013 Mediation Agreement, the Defendants update the Plaintiffs on the status of the agreed proposals to Agency leadership:

1. Proposal: *The incoming non-medically assessed offenders whose self-assessment indicate a heat related risk will be placed upon a temporary wellness checklist, until medically evaluated with documentation.*

Update: All incoming offenders arriving at a TDCJ facility are reviewed upon arrival to determine if they are taking any medication. Those medications will be cross-referenced with a list of medications known to raise heat concerns. If the medication the offender is taking is on the list, the offender's name will be placed on a list and that list will be provided to the Count Room to ensure the offender receives wellness checks from correctional staff until the offender receives a full medical assessment.

The May 1, 2013 message to all Texas Department of Criminal Justice (TDCJ) staff, Message ID 487862, Subject: Heat Precaution 2013, included the following new paragraph:

TDCJ STAFF AND MEDICAL PROVIDERS SHALL WORK CLOSELY TOGETHER TO IDENTIFY OFFENDERS SUSCEPTIBLE TO HEAT RELATED ISSUES DUE TO THE OFFENDER'S CURRENT MEDICAL CONDITION. A LIST OF IDENTIFIED OFFENDERS SHALL BE PROVIDED TO OFFICERS ASSIGNED TO HOUSING AREAS. DURING NORMAL SECURITY CHECKS, OFFICERS SHALL CONDUCT WELLNESS CHECKS AND SEEK ASSISTANCE FOR THE OFFENDER AS NEEDED.

2. Proposal: *Development of a training video on the identification of and response to, apparent heat related illness or injuries, in cooperation with appropriate medical experts.*

Update: A University of Texas Medical Branch (UTMB) video is currently mandatory viewing for all Correctional Officers. Copies of the video have been produced to the Plaintiffs. The video is in the process of being updated.

3. Proposal: *Defendants will review the feasibility of respite areas for newly received offenders or previously identified offenders on the heat list along with development of appropriate documentation.*

Update: Even though all facilities are not completely air conditioned, each unit has some areas that are air conditioned. Many of these areas are unit medical departments, classrooms, and chapels. Should an offender exhibit signs of heat exhaustion or heat stress, they may be escorted to one of these areas to cool down. On the Hutchins Unit and other similarly designated units, within the housing area, the multi-purpose room serves as a respite area.

4. Proposal: *Identify offenders at risk of heat injury in a manner visible to all staff.*

Update: Offenders identified by medical to be at risk of heat related illness are placed on a wellness checklist for the security officers to monitor during rounds. Currently, the Hutchins and Gurney Units place white arm bands on offenders at risk for heat injury. TDCJ currently lists offenders with heat restrictions on the Work, Chain, and Housing rosters.

5. Proposal: *Develop a formal written policy for addressing excessive heat in prisoner housing areas.*

Update: Administrative Directive 10.64, "Temperature Extremes in the TDCJ Workplace" is currently under review to expand its coverage to include TDCJ housing areas. Expected completion date is October 1, 2013, when the draft will be sent for agency-wide staffing.

6. Proposal: *For every prisoner's death (whether at a prison or at a medical facility after transfer from the prison) where hyperthermia, heat, high temperatures or the heat index is a cause or contributing cause, the warden of the prison, the regional director overseeing that particular prison, the Correctional Institutions Division director, the Executive Director and the TDCJ Board shall be notified and provided a report.*

Update: Currently, pursuant to Administrative Directives 02.15 and 03.29, every offender death, excluding physician attended or hospice deaths, requires an Emergency Action Center report, an administrative review, and an Office of Inspector General investigation.

Administrative Directive 10.64, "Temperature Extremes in the TDCJ Workplace" is currently under review with the proposal to expand notification procedures. TDCJ is also in the process of formally implementing by adoption into Administrative Directive 10.64 annual reviews of any possible heat-related deaths by TDCJ Division leadership at the end of each calendar year, as well as pre-summer TDCJ Division leadership meetings to prepare TDCJ Divisions for the upcoming summer.

/s/ Bruce R. Garcia

**BRUCE R. GARCIA**

Assistant Attorney General

Attorney in Charge

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**ATTORNEYS FOR DEFENDANTS TEXAS  
DEPARTMENT OF CRIMINAL JUSTICE,  
BRAD LIVINGSTON, ROBERT EASON AND  
JEFF PRINGLE**

**NOTICE OF ELECTRONIC FILING**

I, **BRUCE R. GARCIA**, Assistant General of Texas, do hereby certify that I have electronically submitted for filing, a true and correct copy of the above in accordance with the Electronic Case Files System of the Northern District of Texas, on this the 9th day of August, 2013.

*/s/ Bruce R. Garcia*  
**BRUCE R. GARCIA**  
Assistant Attorney General

**CERTIFICATE OF SERVICE**

I, **BRUCE R. GARCIA**, Assistant Attorney General of Texas, do hereby certify that a true and correct copy of the above and foregoing **MEDIATION PROPOSAL UPDATE** has been served by placing same in the United States Mail, postage prepaid, on August 9, 2013 addressed to:

Jeff Edwards  
The Edwards Law Firm  
The Bremond Houston House  
706 Guadalupe  
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Texas Civil Rights Project  
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Eliot Shavin  
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*/s/ Bruce R. Garcia*  
**BRUCE R. GARCIA**  
Assistant Attorney General